



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/203,449 12/01/98 WOLPERT G TGI-003XX

BOURQUE AND ASSOCIATES
835 HANOVER STREET
SUITE 303
MANCHESTER NH 03104

LM12/0721

EXAMINER

SWANN III, G

ART UNIT

PAPER NUMBER

2736

DATE MAILED:

07/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/203,449

Applicant(s)

Wolpert et al.

Examiner

Glen R. Swann III

Group Art Unit

2736



☐ Responsive to communication(s) filed on _____

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-49 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☒ Claim(s) 1-10, 12-19, and 25-39 is/are allowed.

☒ Claim(s) 11, 20, 21, 23, 24, and 40-45 is/are rejected.

☒ Claim(s) 22 and 46-49 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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1. The request filed on 6/30/00 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/203,449 is acceptable and a CPA has been established. An action on the CPA follows.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 20, 21, 23, 41, 42, 44, and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Mantegazza ('681).
7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mantegazza ('681) in view of Dames et al. ('649). In view of Dames et al. ('649), it would have been obvious to one of ordinary skill in the art at the time of the invention to form the magnetic regions of Mantegazza as graphic indicia (per Figs. 1& 2 and column 4, line 56 through column 5, line 7 of Dames et al.).
8. Claim 43 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The provision of analog data in the magnetic data is not disclosed.

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9. Claims 11 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 11, line 3, --magnetic-- should be inserted before "characteristic" for antecedent basis for the next line. In claim 40, line 2, "graphical indicia" should read --pattern-- for clear antecedent basis.
10. Claims 22 and 46-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
11. Claims 11, 40, and 43 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
12. Claims 1-10, 12-19, and 25-39 are allowed.
13. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the three magnetic levels as recited in claim 46 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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14. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "42b" (page 21, line 16) is not seen in Fig. 8. Correction is required.
15. The disclosure is objected to because of the following informalities: On page 14, line 25, "is" should read --are--. Appropriate correction is required.
16. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
17. This is a continuation of applicant's earlier Application No. 09/203,449. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glen Swann at telephone number (703) 305-4384. He can normally be reached Monday through Thursday from 7:30 AM to 4:30 PM. He is also available on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, his supervisor, Jeffrey Hofsass, can be reached at (703) 305-4717.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist at (703) 305-3900.

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Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 308-6296 or (703) 308-6306

Hand-delivered responses should be brought to Crystal Park 2, 2121 Crystal Drive,
Arlington, VA, Sixth floor (Receptionist).


GLEN SWANN
PRIMARY EXAMINER

SWANN:grs
July 20, 2000